

**A. REJECTION OF CLAIMS 1, 7 AND 8 UNDER 35 U.S.C. §102(e)**

With regard to the 35 U.S.C. §102(e) rejection of claims 1, 7 and 8 over Dutta, Applicants assert that Dutta fails to teach each and every feature of the claimed invention. For example, with respect to independent claims 1, 7 and 8, Applicants submit that Dutta fails to teach, *inter alia*, wherein the any one server out of said plurality of individual servers is adapted to issue the load balancing instructions that apply to any of the plurality of individual servers. The Office interprets the messages of Dutta as indirectly affecting servers other than the server that sent the message because the sending server's traffic is now directed to the non-sending server. Even assuming, *arguendo*, this interpretation, Dutta does not teach that the messages directly apply to a server other than the sending server.

In contrast, the claimed invention includes "...wherein the any one server out of said plurality of individual servers is adapted to issue the load balancing instructions that apply to any of the plurality of individual servers." Claim 1. As such, the load balancing instructions of the claimed invention do not merely indirectly affect other servers, as in the Office's interpretation of Dutta, but rather directly apply to any of the plurality of individual servers. For example, server A may send a load balancing instruction to the NCS that instructs the NCS to decrease the load for a specific server B. Thus, the messages of Dutta do not teach the load balancing instructions of the claimed invention. Accordingly, Applicants respectfully request that the Office withdraw its rejection.

With further respect to independent claim 8, Applicants respectfully submit that Dutta also fails to teach an NCS-control HTTP header that includes both directives and a filter. Dutta teaches that "...Server A then becomes congested (heavily loaded), and sends a message to the

firewall to either generally reduce the amount of traffic being directed to Server A, or else specifically to redirect the traffic being sent in accordance with load balancing rule X to another server.” Col. 5, lines 18-24. To this extent, Dutta allows a server to send a message to the firewall to redistribute some or all of its traffic. However, Dutta does not teach that this message is in an HTTP header format. The Office further cites a passage in the background section of Dutta that describes the regulation of packetized information flow performed by a firewall as teaching the filter of the claimed invention. However, this flow regulation is not taught by Dutta as being send in a message from a server to the firewall, much less the same message as the message to redistribute traffic.

The claimed invention, in contrast, includes “...issuing load balancing instructions to said NCS by passing said load balancing instructions to said NCS in a NCS-control HTTP header, including the steps of: including, in the NCS-control HTTP header, directives that must be obeyed by said NCS; and including, in the NCS-control HTTP header, a filter to limit a scope of application of said directives. Claim 8. As such, unlike in Dutta, the load balancing instructions of the claimed invention are in HTTP header format and include both a directive and a filter in the same instruction. Thus, the message of Dutta does not teach the load balancing instruction of the claimed invention. Accordingly, Applicants request withdrawal of the rejection.

## **B. REJECTION OF CLAIMS UNDER 35 U.S.C. §103(a)**

With regard to the 35 U.S.C. §103(a) rejection of claims 3-5 over Dutta in view of Pavan, Applicants continue to assert that there is no motivation or suggestion to combine the Dutta and Pavan references. Specifically, Dutta performs load balancing, that is, performing some analysis

on a packet of information received from a remote location and forwarding the packet to a selected server out of a number of servers for processing. Col. 1, lines 15-18. To this extent, the purpose of Dutta is correctly distributing packets among the servers. In contrast, Pavan discloses a network scheduler that schedules the use of a single shared resource such as a physical communication channel. Col. 4, lines 5-10. To this extent, while Dutta distributes a single packet among multiple servers, Pavan coordinates multiple communications on a single channel. As such, Pavan is in a field of art that is non-analogous to that of Dutta. Furthermore, as the goal of Pavan is correctly scheduling an order of task performance on a single resource, it does not solve the same problem as Dutta, i.e. to balance resources. Thus, there is no motivation in the references themselves or in the art for combining the references. Accordingly, Applicants submit that the Office has failed to prove a *prima facie case* of obviousness and request that the Office's rejection be withdrawn.

With respect to newly amended claim 5, Applicants respectfully submit that the cited references fail to teach or suggest a share directive aimed at enabling an information sharing within all members of said plurality of individual servers and said NCS by depositing an HTTP header in the NCS that is added to all subsequent requests having a matching filter that are issued from the NCS to any server. Specifically, to the extent that the cited references teach a share directive, they do not teach or suggest that it is performed by depositing an HTTP header into requests having a matching filter that are issued from the NCS to any server. Accordingly, Applicants respectfully request that the Office withdraw its rejection.

With regard to the Office's other arguments regarding dependent claims, Applicants herein incorporate the arguments presented above with respect to independent claims listed

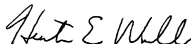
above. In addition, Applicants submit that all dependant claims are allowable based on their own distinct features. However, for brevity, Applicants will forego addressing each of these rejections individually, but reserves the right to do so should it become necessary. Accordingly, Applicants respectfully request that the Office withdraw its rejection.

#### **IV. CONCLUSION**

In addition to the above arguments, Applicants submit that each of the pending claims is patentable for one or more additional unique features. To this extent, Applicants do not acquiesce to the Office's interpretation of the claimed subject matter or the references used in rejecting the claimed subject matter. Additionally, Applicants do not acquiesce to the Office's combinations and modifications of the various references or the motives cited for such combinations and modifications. These features and the appropriateness of the Office's combinations and modifications have not been separately addressed herein for brevity. However, Applicants reserve the right to present such arguments in a later response should one be necessary.

In light of the above, Applicants respectfully submit that all claims are in condition for allowance. Should the Examiner require anything further to place the application in better condition for allowance, the Examiner is invited to contact Applicants' undersigned representative at the number listed below.

Respectfully submitted,



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